



**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
At Wheeling**

MARY ELIZABETH WHITE,

Plaintiff,

v.

CIVIL ACTION NO.: 5:19-CV-264 (Bailey)

CMH HOMES, INC.

d/b/a Clayton Homes Morgantown, WV,

ANDREW CAMEON,

R&J CONTRACTING, LLC,

and **DOUG BOWSER**

Defendants,

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1331, 1441(c), 1446, and the Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301 *et seq.*, Defendants CMH Homes, Inc. and Andrew Cameon (hereinafter referred to collectively as “CMH”) by counsel, Jason J. Stemple, and Duffield, Lovejoy, Stemple & Boggs, PLLC, hereby give notice of the removal of this case from the Circuit Court of Brooke County, West Virginia to the United States District Court for the Northern District of West Virginia, at Wheeling. The specific grounds for removal are as follows:

1. This action was filed in the Circuit Court of Brooke County, West Virginia on or about August 26, 2019. (See "**Exhibit A**" for a copy of all process, pleadings, and orders served upon such in this action, including the docket sheet and Complaint for civil action number 19-C-61).

2. The Summons and Complaint were served upon Defendants CMH Homes, Inc. and R&J Contracting, LLC on August 29, 2019. (See **Exhibit A**, Service of Process from West Virginia Secretary of State).

3. Plaintiff is a resident of the State of West Virginia and resident of Brooke County, West Virginia. (See **Exhibit A**, Complaint, ¶ 1).

4. Defendant CMH Homes, Inc. is a corporate resident of the state of Tennessee with its principal place of business in Maryville, Tennessee.

5. Defendant Andrew Cameon is an employee of CMH Homes, Inc. and resident of the state of West Virginia.

6. Defendant R&J Contracting LLC is West Virginia Limited Liability Company.

7. Plaintiff has alleged in her Complaint that Defendants acts or omissions constitute fraud, intentional misconduct, breach of contract and that such conduct also violates West Virginia industry standards, the West Virginia Consumer Credit Protection Act, and the Magnuson-Moss Warranty Act. (See **Exhibit A**, Complaint, ¶¶ 23-30).

8. Plaintiff's claim for violation of the Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301 *et seq.* ("MMWA") confers original jurisdiction upon this Court pursuant to 28 U.S.C. Section 1331.

9. 28 U.S.C. § 1367 confers supplemental jurisdiction upon this Court for Plaintiff's remaining claims.

10. Claims under the MMWA are removable if the amount in controversy is \$50,000 or more. *Doyle v. Fleetwood Homes of Virginia, Inc.*, 650 F. Supp. 2d 535, 537 (S.D.W. Va. 2009).

11. Plaintiff seeks damages for "monetary loss, aggravation, inconvenience, mental distress, financial stress, attorney fees and expenses." (See **Exhibit A**, Complaint, ¶ 37).

12. Plaintiff also states that Defendants' conduct in this matter entitles her to punitive damages. (See **Exhibit A**, Complaint, ¶ 37).

13. Plaintiff entered into a Sales Agreement to purchase a manufactured home from Defendant CMH Homes, Inc. for \$111,448.59. (See **Exhibit B**, Sales Agreement,).

14. The purchase price of the manufactured home as set forth in the Sales Agreement clearly exceeds the \$50,000 amount in controversy requirement of the MMWA in 15 U.S.C. 2310(d)(3)(b).

15. CMH Homes, Inc. and Andrew Cameon consent to the removal as evidenced by the signature of the undersigned, as their attorney in this civil action.

16. Defendants R&J Contracting LLC and Doug Bowser have consented to the removal of this action as evidenced by the signatures on the Consent to Remove State Court Action to Federal Court. (See **Exhibit C and D**, Consent to Removal Action).

17. This Notice of Removal is filed with this Court within thirty (30) days after the receipt by Defendants, through service of a copy of the Summons and initial Complaint.

18. In conjunction with filing this Notice of Removal, Defendant CMH took the following actions: (a) mailed written notice of the filing of this Notice of Removal to all parties; and (b) mailed a true and accurate copy of this Notice of Removal to the Clerk of the Circuit Court of Brooke County, West Virginia. (See copy of State Court Notice of Removal, attached as **Exhibit E**).

19. Defendant CMH has complied with all provisions of 28 U.S.C. §1446 governing the process for removal.

WHEREFORE, Defendants CMH Homes, Inc. and Andrew Cameon hereby remove to this Honorable Court the action currently pending in the Circuit Court of Brooke County, West Virginia as Civil Action Number 19-C-61.

**CMH HOMES, INC., and
ANDREW CAMEON,
BY COUNSEL**

s/Jason J. Stemple
Jason J. Stemple (WV Bar No. 8883)
Duffield, Lovejoy, Stemple & Boggs, PLLC
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(304) 522 3038
(Counsel for Defendants CMH Homes, Inc.
And Andrew Cameon)

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ANDREW CAMEON,

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and **DOUGH BOWSER**

Defendants,

CERTIFICATE OF SERVICE

I hereby certify that, on this 10th day of September, 2019, the undersigned counsel served the foregoing "**NOTICE OF REMOVAL**" upon counsel of record by filing the document with the Clerk of the Court for the United States District Court for the Northern District of West Virginia, Wheeling Division, using the CM/ECF System, which will send notification of such filing to counsel of record as follows:

Frank X. Duff, Esq. (WV Bar No. 1065)
Sandra K. Law, Esq. (WV Bar No. 6071)
Schrader Companion Duff & Law, PLLC
401 Main Street
Wheeling, WV 26003
(Counsel for Plaintiff)
(304) 233-3390

Additionally, a copy of the foregoing was served via first class mail, postage prepaid, upon the following Defendants:

Doug Bowser
Bowser Contracting LLC
d/b/a Bowser Contracting, LLC
1423 Jenks Fork Road
Tallmansville, WV 26237

Ralph W. Shipp, Jr.
R&J Contracting LLC
280 Oakdale Dr.
Grafton, WV 26354

s/Jason J. Stemple
Jason J. Stemple (WV Bar No. 8883)
Duffield, Lovejoy, Stemple & Boggs PLLC
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Huntington, WV 25701
(304) 522-3038
(Counsel for Defendant CMH Homes, Inc.
and Andrew Cameon)